



# House of Representatives

General Assembly

**File No. 444**

*January Session, 2003*

House Bill No. 6463

*House of Representatives, April 17, 2003*

The Committee on Government Administration and Elections reported through REP. O'ROURKE of the 32nd Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT CONCERNING REPORTING REQUIREMENTS ON PREVAILING WAGE PROJECTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-53 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) Each contract for the construction, remodeling, refinishing,  
4 refurbishing, rehabilitation, alteration or repair of any public works  
5 project by the state or any of its agents, or by any political subdivision  
6 of the state or any of its agents, shall contain the following provision:  
7 "The wages paid on an hourly basis to any mechanic, laborer or  
8 [workman employed upon] worker performing the work herein  
9 contracted to be done and the amount of payment or contribution paid  
10 or payable on behalf of each such [employee] person to any employee  
11 welfare fund, as defined in subsection (h) of this section, shall be at a  
12 rate equal to the rate customary or prevailing for the same work in the

13 same trade or occupation in the town in which such public works  
14 project is being constructed. Any contractor who is not obligated by  
15 agreement to make payment or contribution on behalf of such  
16 [employees] persons to any such employee welfare fund shall pay to  
17 each [employee] mechanic, laborer or worker as part of [his] such  
18 person's wages the amount of payment or contribution for [his] such  
19 person's classification on each pay day."

20 (b) Any person who knowingly or wilfully employs any mechanic,  
21 laborer or [workman] worker in the construction, remodeling,  
22 refinishing, refurbishing, rehabilitation, alteration or repair of any  
23 public works project for or on behalf of the state or any of its agents, or  
24 any political subdivision of the state or any of its agents, at a rate of  
25 wage on an hourly basis [which] that is less than the rate customary or  
26 prevailing for the same work in the same trade or occupation in the  
27 town in which such public works project is being constructed,  
28 remodeled, refinished, refurbished, rehabilitated, altered or repaired,  
29 or who fails to pay the amount of payment or contributions paid or  
30 payable on behalf of each such [employee] person to any employee  
31 welfare fund, or in lieu thereof to the [employee] person, as provided  
32 by subsection (a) of this section, shall be fined not less than two  
33 thousand five hundred dollars but not more than five thousand dollars  
34 for each offense and (1) for the first violation, shall be disqualified from  
35 bidding on contracts with the state or any political subdivision until  
36 the contractor or subcontractor has made full restitution of the back  
37 wages owed to such persons and for an additional six months  
38 thereafter and (2) for subsequent violations, shall be disqualified from  
39 bidding on contracts with the state or any political subdivision until  
40 the contractor or subcontractor has made full restitution of the back  
41 wages owed to such persons and for not less than an additional two  
42 years thereafter. In addition, if it is found by the contracting officer  
43 representing the state or political subdivision [thereof] of the state that  
44 any mechanic, laborer or [workman] worker employed by the  
45 contractor or any subcontractor directly on the site for the work  
46 covered by the contract has been or is being paid a rate of wages less  
47 than the rate of wages required by the contract to be paid as required

48 by this section, the state or contracting political subdivision [thereof] of  
49 the state may (A) by written notice to the contractor, terminate such  
50 contractor's right to proceed with the work or such part of the work as  
51 to which there has been a failure to pay said required wages and to  
52 prosecute the work to completion by contract or otherwise, and the  
53 contractor and [his] the contractor's sureties shall be liable to the state  
54 or the contracting political subdivision for any excess costs occasioned  
55 the state or the contracting political subdivision thereby, or (B)  
56 withhold payment of money to the contractor or subcontractor. The  
57 contracting department of the state or the political subdivision  
58 [thereof] of the state shall, [within] not later than two days after taking  
59 such action, notify the Labor Commissioner, in writing, of the name of  
60 the contractor or subcontractor, the project involved, the location of the  
61 work, the violations involved, the date the contract was terminated,  
62 and steps taken to collect the required wages.

63 (c) The Labor Commissioner may make complaint to the proper  
64 prosecuting authorities for the violation of any provision of subsection  
65 (b).

66 (d) For the purpose of predetermining the prevailing rate of wage  
67 on an hourly basis and the amount of payment or contributions paid or  
68 payable on behalf of each [employee] person to any employee welfare  
69 fund, as defined in subsection (h) of this section, in each town where  
70 such contract is to be performed, the Labor Commissioner shall (1)  
71 hold a hearing at any required time to determine the prevailing rate of  
72 wages on an hourly basis and the amount of payment or contributions  
73 paid or payable on behalf of each person to any employee welfare  
74 fund, as defined in subsection (h) of this section, upon any public work  
75 within any specified area, and shall establish classifications of skilled,  
76 semiskilled and ordinary labor, or (2) adopt and use such appropriate  
77 and applicable prevailing wage rate determinations as have been made  
78 by the Secretary of Labor of the United States under the provisions of  
79 the Davis-Bacon Act, as amended.

80 (e) The Labor Commissioner shall determine the prevailing rate of

81 wages on an hourly basis and the amount of payment or contributions  
82 paid or payable on behalf of such [employee] person to any employee  
83 welfare fund, as defined in subsection (h) of this section, in each  
84 locality where any such public work is to be constructed, and the agent  
85 empowered to let such contract shall contact the Labor Commissioner,  
86 at least ten but not more than twenty days prior to the date such  
87 contracts will be advertised for bid, to ascertain the proper rate of  
88 wages and amount of employee welfare fund payments or  
89 contributions and shall include such rate of wage on an hourly basis  
90 and the amount of payment or contributions paid or payable on behalf  
91 of each [employee] person to any employee welfare fund, as defined in  
92 subsection (h) of this section, or in lieu thereof the amount to be paid  
93 directly to each [employee] person for such payment or contributions  
94 as provided in subsection (a) of this section for all classifications of  
95 labor in the proposal for the contract. The rate of wage on an hourly  
96 basis and the amount of payment or contributions to any employee  
97 welfare fund, as defined in subsection (h) of this section, or cash in lieu  
98 thereof, as provided in subsection (a) of this section, shall, at all times,  
99 be considered as the minimum rate for the classification for which it  
100 was established. Prior to the award of any contract subject to the  
101 provisions of this section, such agent shall certify in writing to the  
102 Labor Commissioner the total dollar amount of work to be done in  
103 connection with such public works project, regardless of whether such  
104 project consists of one or more contracts. Upon the award of any  
105 contract subject to the provisions of this section, the contractor to  
106 whom such contract is awarded shall certify, under oath, to the Labor  
107 Commissioner the pay scale to be used by such contractor and any of  
108 [his] the contractor's subcontractors for work to be performed under  
109 such contract.

110 (f) Each employer subject to the provisions of this section or section  
111 31-54 shall (1) keep, maintain and preserve such records relating to the  
112 wages and hours worked by each [employee] mechanic, laborer and  
113 worker and a schedule of the occupation or work classification at  
114 which each mechanic, laborer or [workman] worker on the project is  
115 employed during each work day and week in such manner and form

116 as the Labor Commissioner establishes to assure the proper payments  
117 due to such [employees] persons or employee welfare funds under this  
118 section or section 31-54, regardless of any contractual relationship  
119 alleged to exist between the contractor and such person, and (2) submit  
120 monthly to the contracting agency a certified payroll [which] that shall  
121 consist of a complete copy of such records accompanied by a statement  
122 signed by the employer [which] that indicates [that] (A) such records  
123 are correct; (B) the rate of wages paid to each mechanic, laborer or  
124 [workman] worker and the amount of payment or contributions paid  
125 or payable on behalf of each such [employee] person to any employee  
126 welfare fund, as defined in subsection (h) of this section, are not less  
127 than the prevailing rate of wages and the amount of payment or  
128 contributions paid or payable on behalf of each such [employee]  
129 person to any employee welfare fund, as determined by the Labor  
130 Commissioner pursuant to subsection (d) of this section, and not less  
131 than those required by the contract to be paid; (C) the employer has  
132 complied with the provisions of this section and section 31-54; (D) each  
133 such [employee] person is covered by a workers' compensation  
134 insurance policy for the duration of [his] such person's employment,  
135 which shall be demonstrated by submitting to the contracting agency  
136 the name of the workers' compensation insurance carrier covering each  
137 such [employee] person, the effective and expiration dates of each  
138 policy and each policy number; (E) the employer does not receive  
139 kickbacks, as defined in 41 USC 52, from any [employee] person or  
140 employee welfare fund; and (F) pursuant to the provisions of section  
141 53a-157a, the employer is aware that filing a certified payroll which  
142 [he] the employer knows to be false is a class D felony for which the  
143 employer may be fined up to five thousand dollars, imprisoned for up  
144 to five years, or both. This subsection shall not be construed to prohibit  
145 a general contractor from relying on the certification of a lower tier  
146 subcontractor, provided the general contractor shall not be exempted  
147 from the provisions of section 53a-157a if [he] the general contractor  
148 knowingly relies upon a subcontractor's false certification.  
149 Notwithstanding the provisions of section 1-210, the certified payroll  
150 shall be considered a public record and every person shall have the

151 right to inspect and copy such records in accordance with the  
152 provisions of section 1-212. The provisions of [sections 31-59(a), 31-  
153 59(b),] subsections (a) and (b) of section 31-59 and sections 31-66 and  
154 31-69 [which] that are not inconsistent with the provisions of this  
155 section or section 31-54 [shall] apply to this section. Failing to file a  
156 certified payroll pursuant to subdivision (2) of this subsection is a class  
157 D felony for which the employer may be fined up to five thousand  
158 dollars, imprisoned for up to five years, or both.

159 (g) The provisions of this section [shall] do not apply where the total  
160 cost of all work to be performed by all contractors and subcontractors  
161 in connection with new construction of any public works project is less  
162 than four hundred thousand dollars or where the total cost of all work  
163 to be performed by all contractors and subcontractors in connection  
164 with any remodeling, refinishing, refurbishing, rehabilitation,  
165 alteration or repair of any public works project is less than one  
166 hundred thousand dollars.

167 (h) As used in this section, section 31-54 and section 31-89a,  
168 "employee welfare fund" means any trust fund established by one or  
169 more employers and one or more labor organizations or one or more  
170 other third parties not affiliated with the employers to provide from  
171 moneys in the fund, whether through the purchase of insurance or  
172 annuity contracts or otherwise, benefits under an employee welfare  
173 plan; provided such term shall not include any such fund where the  
174 trustee, or all of the trustees, are subject to supervision by the  
175 Commissioner of Banking of this state or any other state or the  
176 Comptroller of the Currency of the United States or the Board of  
177 Governors of the Federal Reserve System, and "benefits under an  
178 employee welfare plan" means one or more benefits or services under  
179 any plan established or maintained for [employees] mechanics,  
180 laborers or workers or their families or dependents, or for both,  
181 including, but not limited to, medical, surgical or hospital care  
182 benefits; benefits in the event of sickness, accident, disability or death;  
183 benefits in the event of unemployment, or retirement benefits.

This act shall take effect as follows:
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Section 1	<i>October 1, 2003</i>
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**LAB**      *Joint Favorable C/R*

GAE

**GAE**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Department of Labor	None	None	None

**Municipal Impact:** None

**Explanation**

The bill's change to the reporting requirements on prevailing wage projects will result in no additional cost to the state. The bill is not anticipated to impact the Department of Labor's prevailing wage activity.



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**OLR Bill Analysis**

HB 6463

**AN ACT CONCERNING REPORTING REQUIREMENTS ON  
PREVAILING WAGE PROJECTS****SUMMARY:**

This bill replaces the word "employee" with "person" in the state prevailing wage law. The change makes the language reflect federal law, but does not appear to change the law's legal effect.

EFFECTIVE DATE: October 1, 2003

**BACKGROUND*****Prevailing Wage Law***

State and federal prevailing wage laws require that contractors pay what is determined to be the prevailing wage for an area to employees and subcontractors employed on state and municipal public works contracts. The state and federal labor departments are charged with enforcing these laws.

***Related Bill***

SB 960 bars general contractors working on prevailing wage projects from awarding work to a subcontractor on the state debarment list.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Change of Reference

Yea 12      Nay 0

Government Administration and Elections Committee

Joint Favorable Report

Yea 17      Nay 0

